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Hudson, WI 54016

In re Application of
JUPE, John
Application No.: 10/551,290
PCT No.: PCT/GB2004/001262
Int. Filing Date: 25 March 2004
Priority Date: 29 March 2003
Docket No.: ARD132USA
For: IMAGE PROCESSING

DECISION

ON PETITION UNDER

37 CFR 1.181

This decision is in response to applicant's petition to withdraw the holding of abandonment, under 37 CFR 1.181.

BACKGROUND

On 27 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing search fee, examination fee or oath or declaration were required.

On 15 November 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 26 November 2007, applicants filed the instant petition.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied. Practitioner states that the Notification of Missing Requirement was not received and indicates that a search of the file did not locate the notification. The docket clerk states that a search of the docket records indicates that the Notification of Missing Requirements was not received.

Item (3) has not been satisfied. Practitioner must provide a copy of the docket records for the firm, where the nonreceived Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies

docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply is required within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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